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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

March 13, 1986

MEMORANDUM

SUBJECT: Time Frames for Determination of Applicability
to New Source Review

FROM: Director
Stationary Source Compliance Division
Office of Air Quality
Planning and Standards

TO: Bruce P. Miller, Acting Chief
Air programs Branch, Region IV

In a recent phone conversation between Roger Pfaff of your staff, and Sally Farrell of my staff, time frames for determination of compliance with permit restrictions on hours of operation, or rates of materials/fuel use were discussed. Specifically, inquiry was made as to whether SCCD considered a rolling yearly average on a daily basis (i.e. averaging some parameter over 365 days, where each day starts the summing/averaging period for a new year) as an appropriate measure of applicability to Prevention of Significant Deterioration (PSD) and nonattainment new source review (NSR).

A source may commit to limit its production by including federally enforceable restrictions on hours of operation or fuel and materials consumption in its permit. Limited operation of the source may serve to lower its emission rates to levels below those which trigger PSD/NSR review. Such permit limits are used by sources to avoid major source review.

At the NSR meetings in Denver this January, attended by new source review staff from Headquarters and all ten Regions, it agreed that a month long period for these permit restrictions is the longest time frame that should be accepted as federally enforceable. Under the constraints of Section 113

of the Clean Air Act it would, in practice, be difficult to enforce violations using a longer time frame, such as an annual average. Upon finding of a violation, Section 113 requires that EPA first issue a Notice of Violation. If the violation extends 30 days beyond notification, the Agency may then issue an order to comply or take civil action. If compliance is based on an annual average, there may be a considerable time lag before the violation can be enforced. Therefore, a one month limit is agreed to be the maximum time EPA should generally accept for avoiding a PSD/NSR threshold. However, if a source is unable to use the monthly limit (due to seasonal variations in productions for example), rolling periods of longer durations are also acceptable for determining applicability to major source review. With the year long rolling average on a daily basis, the source must demonstrate compliance for any consecutive 365 days, thereby averting the problems encountered with enforcing discrete annual averages. A twelve month rolling average (year long, on a twelve month basis) is the maximum time frame that would be accepted as federally enforceable.

It should be emphasized that the averaging periods recommended are for the purpose of determining applicability to new source review. The above policy is not to be extended to determination of compliance with emission limitations.

If you have any questions, please contact Sally M. Farrell at FTS 382-2875.

Edward E. Reich

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